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April 27, 2009

The Honorable Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Sandi Perry, Complainant/Petitioner v. BellSouth Telecommunications,
Incorporated d/b/a AT&T South Carolina, Defendant/Respondent
Docket No.: 2008-415-C

Dear Mr. Terreni:

Enclosed for filing is AT&T South Carolina's Response to Ms. Perry's April 21, 2009 Submission and Motion to Revise Scheduling Order or Hold Proceedings in Abeyance in the above-referenced matter.

By copy of this letter, I am serving all parties of record with a copy of this response as indicated on the attached Certificate of Service.

Sincerely,

Patrick W. Turner

Enclosure
cc: All Parties of Record
DM5 #734326

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2008-415-C

IN RE:)	
)	
Sandi Perry,)	
Complainant/Petitioner,)	
)	
v.)	
)	
BellSouth Telecommunications, Inc.)	
d/b/a AT&T South Carolina,)	
)	
<u>Defendant/Respondent.</u>)	

**AT&T SOUTH CAROLINA’S RESPONSE TO MS. PERRY’S APRIL 21, 2009
SUBMISSION AND MOTION TO REVISE SCHEDULING ORDER OR HOLD
PROCEEDINGS IN ABEYANCE**

BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (“AT&T South Carolina”) respectfully submits this Response to Ms. Perry’s April 21, 2009 Submission and Motion to Revise Scheduling Order or Hold Proceedings in Abeyance. In her April 21, 2009 Submission (“Submission”), Ms. Perry requests that her Complaint in this Docket serve as her direct testimony, requests that hearings in this Docket be held in Charleston, and raises other various issues. AT&T South Carolina hereby makes a good faith effort to settle this matter in light of the minimal amount in controversy, and responds to the requests and allegations presented in Ms. Perry’s Submission. In addition, in light of Ms. Perry’s failure to file her direct testimony, AT&T South Carolina requests that the Commission revise the Scheduling Order in this Docket or hold the proceedings in abeyance until the Commission has time to consider the issues raised in Ms. Perry’s Submission and in this Response.¹

¹ AT&T South Carolina’s Direct Testimony is due May 5, 2009.

I. Settlement

The amounts Ms. Perry alleges in her Complaint total less than \$50.00.² In light of the minimal amounts at issue, AT&T South Carolina desires to immediately resolve this matter. AT&T South Carolina hereby offers Ms. Perry \$50.00 in order to settle all claims she has raised in this Docket. AT&T South Carolina believes this is a fair and reasonable settlement offer, and would welcome the opportunity to discuss this offer with Ms. Perry and a hearing officer appointed by the Commission. However, in case Ms. Perry decides to decline this offer, AT&T South Carolina responds to her requests and allegations in her Submission below.

II. Request for Complaint to Serve as Direct Testimony

Pursuant to the South Carolina Code of Regulations and the Prefile Testimony Letter issued in this Docket, Ms. Perry's direct testimony in this Docket was due on April 21, 2009. In her Submission, she states "[a]s to direct testimony, I have stated my case sufficiently in the complaints. Look therein for my testimony."³

Factual allegations in unverified pleadings do not constitute evidence, and cannot be used to establish liability.⁴ Without direct testimony, Ms. Perry cannot establish her claims, and AT&T South Carolina cannot prepare its own testimony to rebut her claims. For example, Ms. Perry's own Submission states "I will provide proof via a document" in regard to her allegation that she was charged for a telephone call that she did not make.

² In Paragraph 7 of her Complaint, Ms. Perry states that she is owed \$1,350 from Docket No. 2006-294-C. Ms. Perry is seeking amounts that she already sought, and was denied, in Docket No. 2006-294-C. Therefore this amount is beyond the Commission's jurisdiction in this Docket, and is barred by the doctrines of res judicata and collateral estoppel. Accordingly, it has not been included in the amount referenced above.

³ See Submission at p.2.

⁴ See *Hemming v. Hare*, 2006 WL 981997 at *5 (D.S.C. 2006) (citations omitted); *Jupiter v. Ashcroft*, 396 F.3d 487, 491 (1st Cir.2005); *In re Grand Jury Subpoena*, 419 F.3d 329, 336 (5th Cir.2005).

This type of documentary evidence is exactly what Ms. Perry is required to produce by the Regulations and the Commission as direct testimony, and is exactly what AT&T South Carolina would respond to in its own direct testimony.

Although *pro se* litigants are afforded more latitude in pleading their case, they are required to provide supporting evidence of their allegations in order to establish liability.⁵ AT&T South Carolina cannot agree to voluntarily proceed with this case without any direct testimony from Ms. Perry presenting evidence in relation to her claims. Should Ms. Perry decline the settlement offer outlined above, AT&T South Carolina will then move immediately to dismiss her Complaint for failure to state her case as required by the Regulations and the Commission.

III. Request for Hearings to be Held in Charleston

Ms. Perry requests that hearings in this Docket be held in Charleston. She states that “[t]he expense of driving to Columbia almost approaches the amount of the figures at issue”.

As Ms. Perry points out, the amounts at issue in this Docket are minimal. If the expense of one person driving from Charleston to Columbia exceeds the amounts at issue in this Docket, then the expense of the entire Commission and the Office of Regulatory Staff going to Charleston from Columbia would far exceed those amounts. The expense involved in holding any hearings in Charleston, in light of the amounts in controversy in this Docket, would not be a prudent use of taxpayer dollars and therefore AT&T South Carolina objects to this request.

IV. Other Allegations

⁵ *Hughes v. Staudt*, 2008 WL 220093 at *6 (D.S.C. 2008) (citations omitted).

Ms. Perry raises other allegations in her Submission, such as allegations that AT&T South Carolina called Ms. Perry and came to her home. AT&T South Carolina objects to the Commission taking up these issues unless or until Ms. Perry files direct testimony in relation to these issues, and after AT&T South Carolina has had an appropriate amount of time to respond to her testimony.

V. Request for Waiver of Copy Requirement

Ms. Perry's Submission requests that the Commission waive the requirement that she submit 25 copies of direct testimony and exhibits because of the expense. AT&T South Carolina takes no position on this request and defers to the Commission on this issue.

VI. Motion to Revise Scheduling Order or Hold Proceedings in Abeyance

AT&T South Carolina hereby moves to revise the Scheduling Order in this Docket or to hold the proceedings in abeyance, until the Commission has had time to consider the issues enumerated above.

Respectfully submitted this 27th day of April.

By: Patrick W. Turner / Pd
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ATTORNEY FOR AT&T SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (“AT&T”) and that she has caused AT&T South Carolina’s Response to Ms. Perry’s April 21, 2009 Submission and Motion to Revise Scheduling Order or Hold Proceedings in Abeyance in Docket No. 2008-415-C to be served upon the following on April 27, 2009:

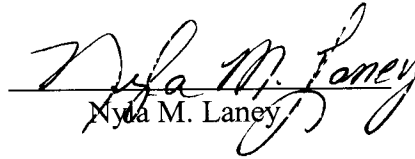
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